

BOARD OF APPEALS CASE NO. 5203

*

BEFORE THE

APPLICANTS: Emerson & Shirley Parks

*

ZONING HEARING EXAMINER

**REQUEST: Variance to permit an existing dwelling *
with sunroom within the required rear yard setback;
301 Royal Oak Drive, Bel Air**

*

OF HARFORD COUNTY

Hearing Advertised

HEARING DATE: January 23, 2002

*

Aegis: 11/28/01 & 12/5/01

Record: 11/30/01 & 12/7/01

*

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Emerson and Shirley Parks, are requesting a variance, pursuant to Harford County Zoning Ordinance 6, Section 10.05, to permit an existing dwelling with a sunroom addition with less than the required 40 foot rear yard setback (20 feet existing for dwelling, 16 feet for sunroom), in an R3/Urban Residential District/Community Development Project (R3/CDP).

The subject parcel is located at 301 Royal Oak Drive in the subdivision of Bright Oaks, Bel Air, Maryland 21015 and is more particularly identified on Tax Map 56, Grid 1-E, Parcel 510, Lot 132. The parcel consists of 0.172± acres, is zoned R3/CDP and is entirely within the First Election District.

The Applicant, Mr. Emerson Parks, appeared and testified that his house was built by the developer. Instead of a rancher, which was specified in the original permit, a bi-level home was built. Although the house was placed on the lot in accordance with the approved site plan in 1975, until this application was filed, it was not known that the existing dwelling did not meet setback requirements. The house is a corner lot and the existing dwelling has been there since 1975. The house is within 20 feet of the rear yard setback and the Applicant proposes an enclosed sunroom to the rear that will have a 16-foot rear yard setback. The Applicant indicated that the house to his rear is at a substantially lower elevation than his and the proposed sunroom will probably not be visible from that house.

Case No. 5203– Emerson & Shirley Parks

The Applicant stated that this elevation difference, coupled with the corner lot configuration and mistake made in approving the placement of the original house within the setback all contribute to the uniqueness of the parcel. The Applicant is proposing a small sunroom addition that he believes is much like other sunrooms in the Bright Oaks subdivision and elsewhere in Harford County and that he does not believe will adversely impact adjoining properties and their owners. As to the variance related to the dwelling, it would constitute an impossibility to move the home into compliance with setback requirements – an obvious and immediate hardship.

Mr. Terry Hunt appeared as the contractor of the Applicant (Patio Enclosures, Inc.). Mr. Hunt reiterated that the property presented a unique configuration. The proposed sunroom location is the location preferred because it provides the greatest setback distance. Additionally, the witness stated that this is a much smaller sunroom than usually constructed because of the small area available.

The Department of Planning and Zoning recommended approval finding the subject parcel unique and, further, that the proposed sunroom would not result in adverse impacts nor would approval materially impair the purposes of the setback requirements of the Code. The Department agreed that the original placement of the dwelling represented an encroachment in 1975 that could only be corrected by removal of the structure. The house has existed in this manner since 1975 and there is no evidence that adverse impacts have resulted.

There were no persons who appeared in opposition to the request.

CONCLUSION:

The Applicants, Emerson and Shirley Parks, are requesting a variance, pursuant to Harford County Zoning Ordinance 6, Section 10.05, to permit an existing dwelling with a sunroom addition with less than the required 40-foot rear yard setback. (20 feet existing for dwelling, 16 feet for sunroom) in an R3/Urban Residential District/Community Development Project (R3/CDP).

Case No. 5203– Emerson & Shirley Parks

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Hearing Examiner finds that the subject parcel is unique. The dwelling was originally placed on the property in the approved location but that location resulted in a setback encroachment that has continued unabated since 1975. The house to the rear of the Applicant’s property is substantially lower in elevation than Applicant’s so it is possible that the sunroom will not be visible from that property. The property is further constrained by its corner configuration. The proposed sunroom will not result in adverse impacts or materially impair the purposes of the Code.

The Hearing Examiner recommends approval, subject to the condition that the Applicants obtain any and all necessary permits and inspections.

Date: FEBRUARY 25, 2002

William F. Casey
Zoning Hearing Examiner